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BEFORE THE
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
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**"The Impact of Aquatic Invasive Species
on the Great Lakes"**

Mr. Chairman, members of the subcommittee, I am Adolph Ojard, Executive Director of the Duluth Seaway Port Authority in Duluth, Minnesota. I am here today as the President of the American Great Lakes Ports Association. Our organization represents the 12 public port authorities on the U.S. side of the Great Lakes. While I am here specifically on behalf of the Great Lakes port community, I can assure you that the views I express today are shared by the majority of private maritime interests in the Great Lakes-St. Lawrence Seaway system.

I want to thank you and the subcommittee for your leadership and your willingness to hold this hearing in such a timely manner at the beginning of the 110th Congress. Although today's hearing focuses on the Great Lakes, where aquatic invasive species have had a considerable impact, it is important to keep in mind that this issue is of broad national and international concern. San Francisco Bay, Puget Sound, the Gulf of Mexico, Chesapeake Bay and many other regions are not far behind the Great Lakes in the damage being done to their aquatic ecosystems by invasive species.

While the various witnesses testifying today will offer differing perspectives, we all agree on one thing: *Congress must act quickly to enact a national program requiring the treatment of ships' ballast water.*

The Great Lakes/Seaway Transportation Corridor continues to develop as an essential component of our national transportation policy. In a sense, it is the Danube of North America, feeding the industrial heartland and---at 2,342 miles in length from the Atlantic Ocean to Duluth---this is the longest deep-draft waterway in the world. The binational region it serves is home to more than 90 million people (nearly one-quarter of North America's population); creates more than a third of North America's gross national product; produces two-thirds of Canada's industrial output; grows almost half the soybean and corn in the U.S.; and accounts for some 40 percent of U.S. manufacturing.

The shipping industry - like any industry - operates under the terms of an unwritten social contract with the public. That is, our industry should add value to society, and do no harm. Indeed, maritime commerce offers numerous benefits. Studies have shown that waterborne transportation is widely regarded as the safest, cleanest, and least costly mode of commercial transport. For example, shipping by water requires only 10% to 20% of the energy required by road. Seaway-sized ships can carry cargoes equivalent to the loads of 870 trucks or 225 rail cars. Ships emit one-tenth the greenhouse gas of trucks and half that of trains. Only one marine accident is recorded for every 13.7 rail accidents and 74.7 truck accidents. Unfortunately, the emergence of aquatic invasive species has become our industry's "Achilles' heel." We stand ready to solve this problem - and let me assure you that we will solve it.

Ballast water is essential to present day commercial ship operations. When ships are empty or partially empty of cargo, they take on ballast water to maintain draft and stability, submerge the propeller and rudder, and uphold acceptable stress loads on the hull. Weather conditions and water depth influence a ship's ballast operations, but the amount, weight, and distribution of cargo on board ultimately determine ballast loads

and distribution within the ship. The greater the load of cargo, the less ballast water and vice versa.

While some have been critical of both Congress and the Coast Guard in responding to this issue, I would like to acknowledge the measures that have been taken. After discovery of the zebra mussel in Lake St. Clair in 1988, Congress enacted the "Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990." This law implemented the first U.S. ballast management regime by requiring all vessels carrying ballast water to flush their tanks with seawater prior to entering the Great Lakes. This practice was expected to reduce the number of organisms transferred into the Great Lakes. In 1996, the National Invasive Species Act expanded this requirement to not only include the Great Lakes, but all coastal ports. While ballast water exchange is an important tool to reduce the introduction of aquatic invasive species, it is not a full-proof solution. Aquatic invasive species continue to be introduced into the Great Lakes and it is apparent that more must be done.

Trade patterns are an important consideration to the invasive species issue. The Great Lakes St Lawrence Seaway was designed and built to provide global connectivity. The principal inbound cargoes have been steel from Europe and iron ore from Canada, delivered to our industrial centers. Ships discharging in the lower Great Lakes will then sail to Duluth -Superior and Thunder Bay, Ontario, to load prairie grains for export back to North Europe, the Mediterranean and North Africa markets. As you can see, a typical cargo ship will call at multiple ports in the U.S. and/or Canada before exiting the Seaway.

A comprehensive federal ballast water treatment program is needed to accomplish two important goals: 1) harness market forces to protect the environment, and 2) create an orderly regulatory environment within which commerce can flow unimpeded.

Thousands of ships move commerce into and out of the U.S. ports each year. The owners of these vessels represent a potential multi-billion dollar market for the manufacturers of ballast water treatment systems. Many of these systems have undergone initial

development; however, they are not being brought to market due the lack of a federal ballast water treatment standard and deadlines for system installations. The single quickest means of developing the technology needed to protect the aquatic environment is to harness the profit motive of these manufacturers.

To bring about a win-win solution, Congress should not only take steps to accelerate protection of the Great Lakes ecosystem, but do so in a manner that maintains an orderly and consistent regulatory environment in which maritime commerce can flourish. For this reason, it is of critical importance that the federal government establish sole jurisdiction over this issue.

The focus of this hearing is the "Impact of Aquatic Invasive Species on the Great Lakes." For the Great Lakes shipping industry, that impact is the fear of a growing patchwork of differing and conflicting state laws - each attempting to regulate ships engaged in interstate or international commerce. Since most Great Lakes vessels load or discharge cargo in numerous jurisdictions, the potential for chaos is considerable.

Chairman Oberstar has for many years advocated legislation to bi-nationalize the management and operation of the St. Lawrence Seaway. He believes strongly that a streamlined regulatory environment will result in a more efficient and successful shipping system. It is for that very reason that I urge the Committee to develop ballast water legislation that establishes exclusive federal jurisdiction.

Since the year 2000, the states of New York, Michigan, Indiana, Illinois, Wisconsin and Minnesota have all considered legislation to regulate ships' ballast water. Additionally, the Province of Ontario has also considered legislation. Many of these efforts have been misguided and reflect the lack of maritime expertise at the state level. To date, only the State of Michigan has actually enacted a ballast water statute. That law requires all ships conducting port operations in Michigan to obtain a permit from the state. Further, it requires that a ship owner either certify that it will not discharge ballast in Michigan waters, or that it will do so only after treating the ballast with one of four ballast water

treatment systems. These systems were arbitrarily selected by the Michigan Department of Environmental Quality. Not one of them has been scientifically tested and shown to prevent the introduction and spread of aquatic invasive species.

It is important to note that states **do not** want to get involved in the regulation of ballast water. Based on our experiences, all branches of state government seem to recognize the negative consequences of their actions. They seem to understand the harm they would inflict on their own citizens and their own economies by imposing added costs and isolating valuable Great Lakes maritime commerce. Yet the continuing lack of action on a federal level has driven the states into attempting independent remedies. With minimal understanding of the intricacies of the maritime industry, the state legislation that is being developed is ineffective at best, absurdly impractical at worst. Further complicating the issue is that state regulatory bodies have little or no knowledge of shipboard issues.

When federal standards are finally enacted, the U.S. Coast Guard must be the regulatory agency. Vessel operations are highly complex. The Coast Guard is the only agency with the knowledge, experience and skill to effectively regulate vessel operations. That, in fact, is what the Coast Guard does---facilitate commerce through safe navigation in safe harbors. They know what to do and when to do it. Just as important, they know what not to do and when not to do it. Any other agency would not only be an impediment to operations, it would be a safety and environmental hazard.

The negative impacts of aquatic invasive species are not in dispute. The need of both the environment and industry is for Congress to create a regulatory framework within which the private sector can begin making the necessary investments to solve this problem. I believe we can protect the aquatic environment and maintain a healthy shipping industry. There is a win-win scenario, and its not far out of reach. Today, technology vendors have developed a host of products to treat ships' ballast water, but absent a federal ballast treatment program, they are reluctant to make the investment necessary to bring these products to market.

So what is needed?

- Defined and enforceable federal standards for ballast water treatment.
- Federal preemption over state and local jurisdiction.
- Uniform national standards and regulation.
- Authorization for the USCG to exclusively regulate shipboard ballast operations.
- Public and private investment in both shipboard ballast water technology and eradication of harmful invaders from our waters.
- Incentives to encourage vessel operators to pursue early installation of approved ballast water treatment systems.

Again, I want to thank the Subcommittee for hosting this hearing and for being sensitive to the need to move quickly on federal legislation. I look forward to continuing this dialogue with the Committee as solutions are crafted and debated. Finally, I would be happy to take answer any questions.